

REMARKS

Applicants request favorable reconsideration and allowance of the subject application in view of the preceding amendments and the following remarks.

Initially, Applicants take this opportunity to again point out that the Information Disclosure Statement (IDS) filed on December 11, 2003, has not yet been indicated as being considered by the Examiner. Applicants request favorable consideration of the IDS and that the Examiner return an annotated copy of the Form PTO-1449 included with the IDS indicating such consideration.

Claims 1-20 and 39-62 are currently presented in the application, claims 21-38 having been withdrawn from consideration pursuant to a restriction requirement. Of the claims now under consideration, claims 1, 5, 39, 43, and 59 are independent.

Claims 1, 5, 39, and 43 have been amended herein to more clearly define features of the invention. Support for the amendments can be found in the application, as originally filed. No new matter has been added.

In the Office Action, claims 1, 2, 5, 6, 11, 14-16, 59, and 60 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 5,409,144 to Brown. In addition, claims 3, 4, 7-10, 12, 13, 61, and 62 stand rejected under 35 U.S.C. § 103 as unpatentable over Brown, and claims 39-59 stand rejected under 35 U.S.C. § 103 as unpatentable over Brown in view of U.S. Design Patent No. D354,198 to Chiang. Although not explicitly stated, Applicants understand that claims 17-20, discussed on pages 3 and 4 of the Office Action, also were intended to be rejected under 35 U.S.C. § 103 as unpatentable over Brown. Applicants traverse these rejections.

In aspects of the invention, independent claims 1 and 5 recite a valve assembly, and independent claim 39 and 43 recite an improved assembly from which to drink. As now recited in those claims, Applicants' inventions include at least one of (i) a first seating surface of a valve seat that is non-complementary to the portion of the top flange surface of the valve, wherein the portion of the top flange surface is for contacting the first seating surface of the valve seat and (ii) a portion of a bottom flange surface, the portion being for contacting a valve engaging surface, that is non-complementary to the valve engaging surface.

In another aspect of Applicants' invention, independent claim 59 recites a valve assembly in which when a valve is retained within a cavity defined by at least a valve seat, a retaining wall, and a valve engaging surface, the valve is deformed such that at least one of a portion of the top flange surface that is non-complementary to the first seating surface when the valve is not contained within the cavity contacts the first seating surface and becomes complementary thereto and a portion of the bottom flange surface that is non-complementary to the valve engaging surface when the valve is not contained within the cavity contacts the valve engaging surface and becomes complementary thereto.

Applicants assert that at least these salient features of Applicants' invention are not taught or suggested by the cited art, whether that art is taken alone or in combination.

The Brown patent relates to a dispensing valve for packaging. As shown in Figure 19, for example, a valve 3c is contained in a container 2c by a snap ring 103. As shown in that figure, a beveled valve seat 91 (included on the container 2c) is inclined upwardly and is adapted to mate with a marginal flange portion 4c of the valve 3c, with the valve 3c being retained in the valve seat 91 by a snap ring 103. The snap ring 103 includes a beveled seat 118 that abuts a surface 98 of the flange portion 4c to sealing retain the valve 3c about a discharge opening 21c.

Various alternative configurations of the flange portion 4c of the valve 3c, of the beveled valve seat 91 of the container 2c, and of the beveled seat 118 of the snap ring 103 are also shown in Figures 46-67 and 71-96 of the Brown patent. Of these alternative configurations, the Office Action cites the valves shown in Figures 56, 59, 60, and 95-98 as having non-complementary surfaces. According to Applicants' understanding, Figures 56, 59, and 60 each depict a valve flange having either ribs formed thereon, or grooves formed therein. Figures 95-98 are understood to each depict a smooth-surfaced valve flange, with at least one of the container and the snap ring having a ribbed, or grooved surface that contacts the smooth-surfaced valve flange.

The Chiang patent relates to a kettle and is understood to be cited merely for teaching a container assembly with a container lip, cover receiving portion, hinge, and cover.

The Brown and Chiang patents are not understood to teach or suggest at least the features of claims 1, 5, 39, 43, and 59 discussed above. In particular, in the Brown patent, for example, the non-complementary surfaces do not include a portion of a top flange surface of a valve that is for contacting a first seating surface of the valve or a portion of a bottom flange surface that is for contacting a valve engaging surface. Accordingly, neither the Brown patent nor the Chiang et al. patent teaches or suggests at least one of (i) a first seating surface of a valve seat that is non-complementary to the portion of the top flange surface of the valve that is for contacting the first seating surface of the valve seat and (ii) a portion of a bottom flange surface, the portion being for contacting a valve engaging surface, that is non-complementary to the valve engaging surface, as recited in independent claims 1, 5, 39, and 43. Moreover, both of those patents fail to teach or suggest a valve assembly in which, *inter alia*, when a valve is retained within a cavity defined by at least a valve seat, a retaining wall, and a valve engaging surface, the valve is deformed such that at least one of a portion of the top flange surface that is non-complementary

to the first seating surface when the valve is not contained within the cavity contacts the first seating surface and becomes complementary thereto and a portion of the bottom flange surface that is non-complementary to the valve engaging surface when the valve is not contained within the cavity contacts the valve engaging surface and becomes complementary thereto, as recited in claim 59.

For the foregoing reasons, Applicants submit that independent claims 1, 5, 39, 43, and 59 patentably define Applicants' inventions over the Brown and Chiang et al. patents, whether those patents are taken alone, or in combination. Accordingly, Applicants request favorable reconsideration and withdrawal of the rejections of the independent claims.


The remaining claims depend from one of the independent claims. These dependent claims are submitted to be allowable because of their dependency, and for reciting other patentable features of the invention. Favorable and independent consideration of the dependent claims are requested.

Applicants submit that this Amendment clearly places this application in condition for allowance. This Amendment was not presented earlier in the prosecution, inasmuch as it was earnestly believed that the claims heretofore on file were allowable. It is believed that the Examiner's familiarity with the present application will allow full consideration hereof without the expenditure of undue time and effort. Accordingly, Applicants request favorable consideration and entry of this Amendment.

Applicants further request favorable reconsideration, withdrawal of the rejections set forth in the above-noted Office Action, and an early Notice of Allowance.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to the address given below for S.C. Johnson & Son, Inc.

Respectfully submitted,



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